



Fair Political Practices Commission



428 J Street, Suite 800, Sacramento, CA 95814

www.fppc.ca.gov

NEWS RELEASE

For Immediate Release
July 23, 2003

Contact: Sigrid Bathen
(916) 322-7761

Supreme Court orders tribal gaming case returned to appeals court *State's highest court sends Agua Caliente appeal back for hearing*

Ordering the case returned to the 3rd District Court of Appeal for hearing, the California Supreme Court today declined to hold a hearing on a motion by the Agua Caliente Band of Cahuilla Indians to dismiss a lawsuit filed against the tribe by the Fair Political Practices Commission last year for failure to comply with state campaign and lobbying disclosure laws.

In a brief order, the Supreme Court granted "review" of the case – as both the tribe and the FPPC had requested – but ordered the case returned to the state appellate court, which last April 24 dismissed the tribe's appeal and returned the case to Sacramento Superior Court, where Judge Loren McMaster had earlier denied the tribe's motion to dismiss the FPPC lawsuit in an historic ruling last Jan. 27.

The tribe filed a petition April 7 asking the 3rd District Court of Appeal to overturn McMaster's ruling, which rejected the tribe's claims of sovereign immunity and found that the FPPC has enforcement jurisdiction over the tribe. The appellate court summarily rejected that appeal without comment on April 24, returning the case to the trial court. Agua then filed a petition for review by the state Supreme Court.

"Given the extensive political activity of Indian tribes and the importance of California's interest in ensuring full and accurate disclosure, these cases present significant issues of first impression," FPPC Chair Liane Randolph said in response to the Supreme Court ruling today. "We have always assumed that the tribal gaming cases would be decided at a level beyond the trial court, so we are pleased that the Court of Appeal will be fully considering the issue,"

Steven Russo, chief of the FPPC's Enforcement Division, said the case presents "an opportunity for an appellate court to make it clear that California gaming tribes who lobby and contribute large sums of money to affect California's political process must disclose their activities the same as everyone else -- or be faced with an enforcement action."

"We are hopeful that the court will act quickly on this matter, due to the importance of the tribes as the state's largest political contributors, and the increased urgency brought about by the prospect of an upcoming gubernatorial recall election," Russo added.

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In a response brief filed with the Supreme Court July 10, FPPC attorneys said “nothing less than the State’s ability to protect its sovereign form of government is at stake” in the Agua case, adding that no case “has addressed the scope of the doctrine of tribal sovereign immunity in this context.”

The FPPC response to Agua’s Supreme Court petition – as well as the tribe’s petition and other legal documents in the case -- are available on the FPPC website at www.fppc.ca.gov, under “litigation” on the home page.

The FPPC lawsuit alleges that the tribe made contributions of more than \$7.5 million to California candidates and political committees between Jan. 1 and Dec. 31, 1998, but did not file major-donor reports disclosing that activity until late 2000. The commission also contends in the suit that the Agua Caliente Band failed to timely disclose more than \$1 million in late contributions, and that the tribe failed to disclose the specific bills and offices being lobbied on its behalf in four quarterly lobbyist employer reports filed in 2001.

The suit was originally filed July 31, 2002, then amended to add additional claims. The Agua tribe is one of the largest contributors to California political campaigns.

Also before the appellate court is an appeal filed July 14 by the FPPC, asking the court to overturn an April 24 Sacramento Superior Court ruling in another tribal gaming case filed by the FPPC. In that case, Judge Joe S. Gray granted a motion by the Santa Rosa Indian Community and Palace Indian Gaming Center – based in Kings County, Calif. – to dismiss a lawsuit filed by the FPPC against the tribe for violations of campaign disclosure provisions of the Political Reform Act. More information on that case is also available on the website, in “Press Center” and “litigation” on the home page.

Representing the FPPC on the tribal sovereignty issues is Sacramento attorney Charity Kenyon of Riegels Campos & Kenyon LLP. The case is also handled for the FPPC by Enforcement Division Chief Steven Russo, with assistance from FPPC General Counsel Luisa Menchaca and staff counsel William L. Williams and Holly B. Armstrong.

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